



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/677,060	09/29/2000	Krishna Kishore Dhara	Dhara 2-2-1	1685
------------	------------	-----------------------	-------------	------

46363 7590 08/23/2006

PATTERSON & SHERIDAN, LLP/
LUCENT TECHNOLOGIES, INC
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

EXAMINER

PHAN, TRI H

ART UNIT	PAPER NUMBER
----------	--------------

2616

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

5/

Office Action Summary

Application No. 09/677,060	Applicant(s) DHARA ET AL.	
Examiner Tri H. Phan	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 June 2006.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21, 23-28 and 30-39 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21, 23-28 and 30-39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Amendment/Arguments

1. This Office Action is in response to the Response/Amendment filed on June 8th, 2006.

Claims 22 and 29 are now canceled. Claims 1-21, 23-28 and 30-39 are now pending in the application.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-21, 23-28 and 30-39 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,879,582 (hereinafter refer as ‘9582’). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

For claims 1-21, 23-28 and 30-39, the claims 1-8 of the U.S. Patent ‘9582’ disclose an apparatus for providing bifurcated voice and signaling data over a network, comprising:
a memory, for storing protocols for interfacing with the network; and

Art Unit: 2616

a processor, coupled to said memory, for segregating signaling traffic and related voice traffic including information useful in establishing a communications link, for transporting said voice traffic between a calling party and called party, and for transmitting said voice traffic and said signaling traffic via different communication channels, wherein said voice traffic is switched to the same communication channel as said signaling traffic in the case of a loss of local power (see claim 1).

wherein one of said communication channels is a data packet network (see claim 2).

wherein said voice traffic is carried by said data packet network (see claim 3).

wherein said voice traffic is subject to compression processing compatible with said data packet network (see claim 4).

wherein one of said communication channels is a wireless network (see claim 5).

wherein said signaling traffic is carried by said wireless network (see claim 6).

wherein said apparatus comprises a Media Terminal Adapter-Cellular Transceiver (MTA-T) having integrated MTA and CT portions (see claim 7).

wherein said apparatus comprises a Media Terminal Adapter-Cellular Transceiver (MTA-CT) having non-integrated MTA and CT portions (see claim 8).

The claims 9-16 of the U.S. Patent '9582' disclose an apparatus for providing bifurcated voice and signaling data over a network, comprising:

a memory, for storing protocols for interfacing with the network; and

a processor, coupled to the memory, for identifying a call request, for establishing a signaling link for transporting signaling traffic to a switch via a first transport medium, and for establishing a voice path for transporting voice traffic to the switch via a second transport medium responsive to a determination that a called party answers, wherein said voice traffic is switched to the same medium as said signaling traffic in the case of a loss of local power (see claim 9).

wherein the first medium is a wireless medium (see claim 10).

wherein said signaling traffic is carried by said wireless medium (see claim 11).

wherein said second medium is a data packet network (see claim 12).

wherein said voice traffic is carried by said data packet network (see claim 13).

wherein said voice traffic is subject to compression processing compatible with said data packet network (see claim 14).

Art Unit: 2616

wherein said apparatus comprises a Media Terminal Adapter-Cellular Transceiver (MTA-CT) having integrated MTA and CT portions (see claim 15).

wherein said apparatus comprises a Media Terminal Adapter-Cellular Transceiver (MTA-CT) having non-integrated MTA and CT portions (see claim 16).

For claims 1-21, 23-28 and 30-39, the claims 1-16 of the U.S. Patent '9582' disclose all the subject matter of the claimed invention with the exception of using the controller in the base station system, means for performing packet/circuit switched conversion, and the computer readable medium storing a software program to perform method disclosed. However, the patent '9582' does disclose about the switch for switching between different channels or transport medium, e.g. wireless or data packet network, when the local power is lost; wherein it is obvious that a "controller" must exist for controlling the switching between channels or mediums and where the base station system is obvious in the wireless network. It is also obvious that a means for packet/circuit switched conversion must exist for converting from one protocol to another different protocol, e.g. from data packet network to wireless network and vice versa. It is also obvious that the software program must exist in the switch in order for the processor to perform the switching method as disclosed. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention was made to provide the software program and controller for performing the switching, as well as the means for converting between different protocols when switching between different networks. The motivation for using software program, controller and means for conversion in the system of the claims 1-16 of the U.S. Patent '9582' being that it provides a need for switching technique from one network to different network, e.g. data packet to circuit switch network and vice versa.

It also notes that the claimed invention of the U.S. Patent '9582' claims disclose the apparatus claims, wherein the claimed invention of the application claims disclose the method claims for the same subject matter as system and method for transporting bifurcated voice and signaling data over the network.

Response to Arguments

3. In the REMARKs filed on June 8th 2006, page 8, under section "Rejections Double Patenting Rejection", Applicant's argument alone does not overcome the Double Patenting Rejection. A timely filed terminal disclaimer must be filed to overcome the double patenting rejection.

Conclusion

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (571) 272-3179.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300

Art Unit: 2616

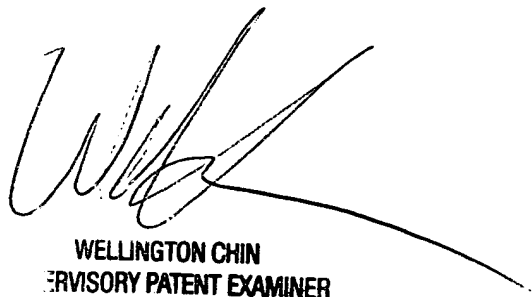
Hand-delivered responses should be brought to Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office, whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tri H. Phan
August 8, 2006



WELLINGTON CHIN
SERVISORY PATENT EXAMINER